

§ 148.246 When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201-4022.

§ 148.248 What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in §§20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

§ 148.250 Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon:

- (a) All other parties; and
- (b) The Commandant (G-M).

§ 148.252 What is the procedure for having a subpoena served?

(a) A party may submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by § 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in <http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc>, must be submitted with the request. If you do not use this form, the proposed subpoena must contain:

- (1) The docket number of the proceedings;
- (2) The captions "Department of Homeland Security," "Coast Guard,"

and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in § 20.309(d) of this chapter and paragraph (h) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF-1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G-M) reviews this decision.

§ 148.254 How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards

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the record, including the transcript, to the clerk to be placed into the docket.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G-M).

APPROVAL OR DENIAL OF THE APPLICATION

§ 148.276 When must the application be approved or denied?

(a) In 33 U.S.C. 1504, the Deepwater Port Act provides strict timelines for action on a license application, which if closely observed can lead to action in just under 1 year. The Coast Guard can recommend that MARAD suspend the process if an applicant fails to provide timely information or requests additional time to comply with a request.

(b) The Coast Guard must conduct public hearings in each adjacent Coastal State within 240 days of publication of the notice of receipt of a deepwater port application.

(c) An application must be approved or denied within 90 days after the close of the public hearing period specified in paragraph (b) of this section.

§ 148.277 How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered, comments from Federal agencies and adjacent coastal States must be received by the Commandant (G-M) within 45 days after the close of the public hearing period specified in § 148.276(b). Separate comment periods will apply to the review of doc-

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uments created during the NEPA process. Both Commandant (G-M) and MARAD review the comments received.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 What are the criteria for approval or denial of an application?

The criteria for approving or denying a license application appear in 33 U.S.C. 1503.

§ 148.281 What happens when more than one application is submitted for an oil deepwater port for the same application area?

(a) When more than one application is submitted for an oil deepwater port for the same application area under 33 U.S.C. 1504(d), only one application is approved. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State;

(2) A person that is:

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil; and then

(3) Any other applicant.

(b) MARAD may also approve one of the proposed deepwater ports if it determines that that port will best serve the national interest. In making this determination, MARAD considers:

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in subpart G to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

(c) This section does not apply to applications for natural gas deepwater ports.